

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Carol A. Wilson, Administrator,
et al.,

Plaintiffs,

v.

Case No. 2:18-cv-842

C3 BHC LLC,

Defendant.

ORDER GRANTING DEFAULT JUDGMENT
AND REQUEST FOR AN AUDIT

This is an action brought by Carol A. Wilson, Administrator of the Ohio Operating Engineers Health and Welfare Plan, Ohio Operating Engineers Pension Fund, the Ohio Operating Engineers Apprenticeship and Training Fund, the Ohio Operating Engineers Education and Safety Fund (collectively "the Funds"), and the trustees of those Funds. According to the allegations in Count I of the complaint, Doc. 1, pp. 5-6, and the affidavit of Administrator Wilson, Doc. 18-1, p. 1, defendant is a party to a collective bargaining agreement known as the Acceptance National Pipeline Agreement ("the Agreement"). This Agreement obligated defendant to make contributions to the Funds and to open its books and records to the Funds for periodic audits with respect to the hours worked by and wages paid to employees of the defendant covered by the Agreement. In her affidavit, Administrator Wilson states that defendant has failed to permit an audit of its books and records from September 1, 2015, to the present as required by the Agreement and the related trust agreements and declarations of trust. Doc. 18-1, p. 2. See also Complaint, ¶ 12. The record reflects that defendant was served with the complaint on January

22, 2019. Doc. 13. Defendant did not file an answer to the complaint. An entry of default was filed by the clerk on March 12, 2019. Doc. 16.

This matter is before the court on plaintiffs' motion for default judgment and for an order directing defendant to make certain records available for an audit. Plaintiffs seek an order permitting plaintiffs to audit defendant's books and records with respect to the hours worked by and wages paid to employees of the defendant who were covered by the Agreements.

Upon consideration of the pleadings, plaintiffs' motion, and the affidavit of Administrator Wilson, the motion (doc. 18) is granted. The court finds that plaintiffs are entitled to default judgment. However, plaintiffs are not in a position to request the entry of final judgment in this case because the amount of damages is undetermined due, in large part, to the plaintiffs' previous lack of access to defendant's records. The court finds that plaintiffs are entitled to audit defendant C3 BHC, LLC's books and records for the period from September 1, 2015, to the present with respect to the hours worked by, wages paid to, and fringe benefit contributions made on behalf of employees of defendant working within the trade jurisdiction of the International Union of Operating Engineers, Local Union Nos. 18, 1A and 18B.

It is hereby ordered that defendant make available to plaintiffs for audit the following records for the period beginning September 1, 2015, to the present, relating to the hours worked by, wages paid to, and fringe benefit contributions made on behalf of employees of defendant working within the trade jurisdiction of the International Union of Operating Engineers, Local Union Nos. 18, 1A

and 18B: all individual earnings records, weekly payroll journals, and other payroll records of the defendant; all quarterly withholding tax and FICA tax returns (Form 941) of the defendant; and all Form W-2s of the defendant. Defendant shall make these records available to plaintiffs within thirty days of the date of this order.

The entry of final judgment is stayed pending the results of the audit and a determination of damages in this case. Plaintiffs shall file a status report with the court within ninety days of the date of this order concerning the progress of the audit.

Date: May 29, 2019

s/James L. Graham
James L. Graham
United States District Judge